

Agreement

Last updated: 05th May 2023

IMPORTANT: Please read this Agreement before start using the Application and/or services rendered by the Application. By installing the Application and/or using the services rendered by the Application you represent and warrant that you have the authority to be bound by this Agreement unless a separate written agreement is in effect that specifically governs the Application and/or services rendered by the Application.

INTRODUCTION

1. This Agreement is a legally binding agreement between **you** (*hereinafter sometimes referred to as the “Licensee”*), and **“Enkiverse (Pvt) Ltd”** (registration Number: PV00275046) having its registered office at No. 84/A, Sri Dammasiddi Mawatha, Karavdeniya, Urubokka, (*hereinafter sometimes referred to as the “Company”*).
2. The Company is the owner of the “Application”, which may include associated media, printed materials, and online or electronic documentation inter alia.
3. This Agreement is a legally binding contract that includes terms that limit your legal rights and Company’s liability to you and shall govern all access to and use of this Application. You hereby agree, without limitation or alteration, to all the terms and conditions contained herein.
4. By installing, copying, creating a user profile, or otherwise using the Licensed Product (Application), the Licensee agrees to be bound by the terms and conditions outlined in this Agreement. However, if the Licensee does not agree to the terms and conditions outlined in this Agreement, the said Licensee may not download, install, or use the Application.

DEFINITIONS

- i. " Agreement " shall refer to this Agreement, including any amendment to this Agreement.
- ii. "Licensee" shall refer to the individual or entity that downloads and uses the Application.
- iii. "Company" shall refer to the Enkiverse (Pvt) Ltd.
- iv. " Application /Licensed product " shall mean the mobile application namely “Hope Counselling Service” which is owned by the Company and the Licensed Product provided pursuant to this Agreement.

- v. “Counsellor” means a third-party service provider who is has special knowledge in the field of psychology and counselling and also trained to give guidance on personal or psychological problems.

CONSENT

- 5. If you (the Licensee) are below the age of eighteen (18), Please refrain from using this application. By installing, copying, creating a user profile, or otherwise using the Application, the Licensee agrees that he/she is above the age of 18 and have full knowledge of the terms and clauses in this agreement.
- 6. If you are below the age of eighteen (18), please contact our helpline and get instructions before installing, copying, creating a user profile, or otherwise using the Application. For the purpose of this agreement every applicant under 18 years of age is deemed to be a “Minor”. Where consent of apparent/guardian is required for the minor to receive Therapist services, you hereby confirm that as the consenting parent/guardian, that you have the sole right to consent to Therapist services for the minor seeking therapy and are not legally mandated to confer with or get consent from any other legal guardian before consenting. You also give affirmative consent to the provisions set forth in the accompanying Privacy Policy regarding the collection, process and use of the personal information on behalf of the minor. You also agree that the consent to the Therapist Services remains until the agreement is terminated.

SPECIAL ADVICE TO THE LICENSEE

- 7. The licensee is advised that,
 - i. The Licensee has the ultimate free will to choose any Counsellor listed/shown in the Application.
 - ii. Any and all Counsellor(s) are not agents, employees, partners, associates inter alia of the Company but independent service providers/ independent contractors.
 - iii. The Company is the company shall not be liable for any mistake/omission/negligence/wrongdoing *inter alia* on the part of the Counsellor.
 - iv. To always contact the Counsellor of their choice in the event of you/Licensee is a harm to himself or any other individual(s).

- v. To develop a prior safety plan with the Counsellor in anticipation of you/Licensee is a harm to himself or any other individual(s).
- vi. The company does not guarantee that therapist(s) is always available in the Application. In the event the therapist of your choice is no longer available on the Application, the company may inform you so as case maybe, and you may choose a new therapist.

INTELLECTUAL PROPERTY

- 8. The Licensee hereby unconditionally agree that all right, title and interest in the copyrights and other intellectual property rights in the Licensed Product reside with the Company. The trademarks, logos, designs, and service marks appearing on the Licensed Product are registered and unregistered marks of Company. Accordingly, nothing in this Agreement or the Licensed Product grants the Licensee any right to use any form of intellectual property contained in the Licensed Product.
- 9. Therefore, all rights, titles, interests, and copyrights in and/or to the Application, including but not limited to all images, graphics, animations, audio, video, music, text, data, code, algorithm, and information, are owned by the Company. Accordingly, the Application is protected by all applicable copyright laws and international treaties, and the Licensee is expected to use the Application concerning all intellectual property contained therein, except as otherwise provided for in this Agreement.

USE AND LIMITATIONS TO USE

- 10. **Installation:** Licensee may install and use the application on a shared computer/mobile phone/tablet or concurrently on different computers mobile phones/tablets, and make multiple back-up copies of the application, solely for Licensee's use within Licensee's business or personal use.
- 11. **Reproduction and Distribution:** Licensee may not duplicate or re-distribute copies of the application, without the Company's express permission.
- 12. **Licensee Limitation:** The Licensee may not:
 - i. Use the Licensed Product for any purpose other than personal and non-commercial purposes;
 - ii. Use the Licensed Product for any illegal or unlawful purpose;
 - iii. Gather factual content or any other portion of the Licensed product by any automated means, including but not limited to database scraping or screen scraping; or

- iv. Reverse engineer, decompile, or disassemble Application, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding the limitation.

INTENDED PURPOSE OF USE

13. The licensee is advised that the Application is created and developed to use as a platform to connect with Counsellor(s) who provides therapy and other services to the Licensee as individual service providers.

UPDATE AND MAINTENANCE

14. The Company may provide updates and maintenance as required from time to time. The Licensee may inform the Company of such required alterations, modifications and updates, however, the sole power to provide updates is with the Company.

PRIVACY AND SECURITY

15. Protecting and safeguarding information provided by you provide is extremely important to us. Please refer the privacy policy available at (insert link to privacy policy). Licensee by agreeing to this agreement shall automatically agree that Licensee referred the privacy policy and content therein and further agree to the privacy policy. The Licensee if further advised the Privacy Policy changes from time to time and the Company will inform the Licensee of such changes.
16. The company reserve the right to hold/terminate/block access any person including the Licensee for any reason as the Company shall seems fit.
17. The Licensee agrees, confirms and acknowledges that he/she is responsible for maintaining the confidentiality of the password and any other security information related to his/her account. The company advises you to change your password frequently and to take extra care in safeguarding your password.
18. The Licensee agrees, confirms and acknowledges that the company will not be liable for any loss or damage incurred as a result of someone else using Licensee's account, either with or without Licensee's consent or knowledge.
19. The Licensee agrees, confirms and acknowledges that the Licensee solely and fully liable and responsible for all activities performed using your Account Access.
20. The Licensee further acknowledge and agree that the company will hold the Licensee liable and responsible for any damage or loss incurred as a result of the use of

Licensee's account access by any person whether authorized by the Licensee or not, and the Licensee agree to indemnify the Company for such damage or loss.

PAYMENTS

21. The Licensee agrees to use only debit/credit cards and/or any other Payment method(s) provided in the Application to which The Licensee is duly and fully authorized to use, and that all payment related information that The Licensee provides and will provide in the future, to or through the Platform is accurate, current and correct and will continue to be accurate current and correct.
22. The Licensee agrees to pay all fees and charges associated with The Licensee's account on a timely basis and according to the fees schedule, the terms and rates published in the Application. By providing payment means The Licensee authorizes the Company and/or an agent of the Company/ and/or a partner of the Company to bill and charge The Licensee through that Payment means and The Licensee agrees to maintain valid payment means information.

GENERAL PROVISIONS

Termination

23. This Agreement is effective and will run indefinitely unless terminated earlier in accordance with the terms of this Agreement. In the event of termination, all licenses provided under this AGREEMENT shall immediately terminate, and the Licensee agrees to discontinue accessing or attempting to access this Licensed product. Accordingly, this AGREEMENT may be:
 - i. Automatically terminated if the Licensee fails to comply with any of the terms and conditions under this AGREEMENT;
 - ii. Terminated by Company ; or
 - iii. Terminated by the Licensee by deleting the profile created by the Licensee.

Non-Transferability

24. This AGREEMENT is not assignable or transferable by the Licensee without the prior written consent of Company; and any attempt to do so shall be void.

Notice

25. Any notice under this AGREEMENT shall be in writing and/or by written electronic mean(s) [eg: typed electronic message but not a voice/audio message], and such as

notice shared within the application and deemed to have been duly given if delivered by email with proof of delivery or shared within the application.

Support/Help

26. The Company may assign one of its agents (support agent) and/or create a mechanism (support mechanism) as the company wishes to provide technical support/help to the Licensee in using the Application.

27. Any complaint, comment and or any other message written or otherwise send to the support agent or support mechanism shall not be considered as a Notice.

Integration

28. Both parties hereby agree that this AGREEMENT is the entire and exclusive statement and legal acknowledgement of the mutual understanding of the parties and supersedes and cancels any previous written and oral agreement and/or communication relating to the subject matter of this AGREEMENT.

Severability

29. No delay or failure to exercise, on the part of either party, any privilege, power or rights under this AGREEMENT shall operate as a waiver of any of the terms and provisions of this AGREEMENT. Accordingly, no single or partial exercise of any right under this Agreement shall preclude further exercise of any other right under this AGREEMENT. Suppose any of the outlined provisions of this AGREEMENT is deemed to be unenforceable or invalid in whole or in part by a court of competent jurisdiction. In that case, such provision shall be limited to the minimum extent necessary for this AGREEMENT to remain in full force and effect and enforceable. The remaining provisions of this Agreement shall not be rendered unenforceable or invalid. They shall continue to be enforceable and valid in isolation of the unenforceable and invalid provisions of this AGREEMENT.

Warranty and Disclaimer

30. Company, and author of this Application, expressly disclaim any or whatsoever warranty for the Application. The Licensed Product and all applicable documentation are provided as-is, without warranty of any kind, whether express or implied, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose, or non-infringement. Accordingly, the Licensee accepts any risk arising out of the use or performance of the Application.

Limited Liability/Indemnification

31. The company shall not be liable for any mistake/omission/negligence/wrongdoing *inter alia* from the part of the Counsellor and Licensee shall always indemnify and keep indemnified the Company from liabilities, damages, losses or expenses, including but not limited to reasonable attorney or other professional fees in any claim, demand, action or proceeding arising out of mistake/omission /negligence/wrongdoing *inter alia* from the part of the Counsellor of Licensee's choice.
32. Licensee hereby agree to indemnify and hold Company harmless from and against all liabilities, damages, losses or expenses, including but not limited to reasonable attorney or other professional fees in any claim, demand, action or proceeding initiated by any third-party against Company, arising from any of Licensee's acts, including without limitation, violating this AGREEMENT or any other agreement or any applicable law.

Entire Agreement

33. This Agreement rightly constitutes the entire understanding between the Company and the Licensee. It supersedes all prior agreements of the parties, whether written or oral, express or implied, statement, condition, or a representation or warranty.
34. The Company reserve the right to modify this Agreement by posting any changes on the Application. Unless otherwise specifically stated, these modifications will take effect immediately upon posting. If the Licensee continue to use the Platform after the modifications become effective, the Licensee is deemed to have accepted the changes to the Agreement. If the Licensee do not agree to the modifications, the Licensee must discontinue the use of the Platform and its services.

GOVERNING LAW

35. In the event any disputes between the parties hereto arising under or in connection with this agreement and such disputes may be settled by negotiation and unless otherwise settled within 30 days of arousal of such dispute, the same shall be adjudicated under and in terms of the provisions of the Arbitration Act No: 11 of 1995 of the Democratic Socialist Republic of Sri Lanka. The decision of the Arbitration Panel so called shall be final and binding on the parties hereto. The seat of Arbitration shall be Colombo and the language of the Arbitral proceedings shall be in English.
36. This agreement shall be governed by and construed in accordance with the laws for the time being of the Democratic Socialist Republic of Sri Lanka.